

DISCUSSION OF THE AMENDMENT

Due to the length of the specification herein, Applicants will cite to the paragraph number of the published patent application (PG Pub) of the present application, i.e., US 2007/0184270, when discussing the application description, both in this section and in the Remarks section, *infra*, rather than to page and line of the specification as filed.

New Claims 6-16 have been added. Claim 6 is supported in the specification at paragraph [0021]. Claim 8 is supported at paragraph [0029]. Claim 9 is supported at paragraphs [0030]-[0031]. Claims 10 and 11 are supported at paragraph [0032]. Claim 12 is supported at paragraph [0037]. Claim 13 is supported at paragraph [0041]. Claim 14 is supported at paragraph [0022]. Claim 15 is supported at paragraph [0047]. Claim 16 is supported throughout the specification, such as at paragraph [0007]. Claim 17 is supported at paragraph [0013]. Claim 18 is supported at paragraph [0015].

No new matter is believed to have been added by the above amendment. Claims 1-18 are now pending in the application.

REMARKS

The rejection of Claims 1-5 under 35 U.S.C. § 103(a) as unpatentable over DE 10061544 (Bayer) in view of EP 2003-146826 [sic, JP 2003-146826] (Nanbu), is respectfully traversed.

As recited in Claim 1, an embodiment of the present invention is crosslinked (meth)acrylate-based resin particles having an average particle diameter of 1 to 10 μm , comprising a copolymer obtained by copolymerization of monomer components comprising a monomer having a carboxyl group and at least one monomer selected from an acrylic ester and a methacrylic ester, wherein the surface of the resin particles is coated with a surfactant having a sulfonic acid group or a sulfonate group.

As Applicants describe in the specification, resin particles having the presently-recited average particle diameter and coated with the presently-recited surfactant have superior properties, such as smoothness and dry feeling effects when used in a cosmetic and applied to the skin. This effect is demonstrated by the comparative data in the specification. Examples 1-7 are according to the presently-claimed invention, Comparative Examples 1-5 are for purposes of comparison. The examples and comparative examples were subjected to various tests, as described [0082]-[0098]. Particularly pertinent are Comparative Examples 1 and 2, wherein the particle size is either slightly below or slightly above the presently-recited range of 1 to 10 μm , respectively, but otherwise within the terms of the present claims.

Comparative Example 1 was inferior in both smoothness and dry feeling compared to Example 1. Comparative Example 2 was inferior in smoothness, dry feeling and durability, compared to Example 1.

The above-discussed results could not have been predicted by the applied prior art.

Bayer discloses soft, monodisperse, spherical polymer beads of average particle size 2-100 microns, which polymer is obtained from a feed containing 20-85 wt% of a 4-18

carbon alkyl(meth)acrylate, 10-50 wt% water-soluble monomer, 1-20 wt% crosslinker, 0-25 wt% other monomer, and 0.05-5 wt% initiator (English Abstract). According to the title of Bayer, the polymer beads are used for coating, film spacer, catalyst carrier, standard substance or as a starting material for chromatographic resin or ion exchanger. Thus, Bayer contains no disclosure with regard to the use of their polymer beads in a cosmetic, or the effect such beads of particular composition and particular particle size range, has on the skin.

Recognizing that Bayer is silent with regard to a coating with a surfactant having a sulfonic acid group or a sulfonate group, the Examiner relies on Nanbu. Nanbu discloses surface coated porous particles with a sulfonic acid-containing surfactant and having high skin fixing properties. Applicants note that Nanbu has been described in the specification herein as disclosing applicable surfactants [0022]. However, without the present disclosure as a guide, one skilled in the art would not have combined Nanbu with Bayer. Since the skin fixing properties disclosed by Nanbu, i.e., cosmetic properties, do not overlap any of the properties required for the particular utilities listed by Bayer, what possible reason would one skilled in the art have for a coating of the type disclosed by Nanbu for the polymer beads of Bayer? Indeed, there is no motivation to combine these references. In addition, while Bayer discloses a particle size of 2-100 μm , Bayer does not recognize any distinction between the presently-recited maximum of 10 μm , and greater particle sizes up to 100 μm , which distinction has been pointed out above with regard to the comparative data in the specification.

Claim 4 and claims dependent thereon are separately patentable, since neither reference discloses or suggests a further coating of silicone-based polymer compound particles.

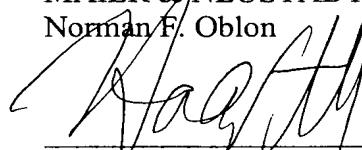
For all the above reasons, it is respectfully requested that the rejection be withdrawn.

All of the presently-pending claims in this application are now believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,

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